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OFFICE OF PETITIONS

In re Application of :
Biondi, Coira, Derstine, Panzica, :
Kent, McNamara, and Harding-Heese : DECISION ACCORDING STATUS
Application No. 09/893,596 : UNDER 37 CFR 1.47(a)
Filed: 29 June, 2001 :
Attorney Docket No. 6504 :

This is in response to the second renewed petition filed under 37 CFR 1.47(a)¹ on 24 March, 2003, which is being treated as: (a) a petition under 37 CFR 1.47(a), and (b) a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by the named inventor.² The \$130 fee has been received.

The petition is **GRANTED**.

Petition Under 37 CFR 1.47(a)

Petitioners have shown that non-signing inventor Matthew Biondi (Biondi), has refused to join in the filing of the above-

¹A grantable petition under 37 CFR 1.47(a) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee; and
- (4) a statement of the last known address of the non-signing inventor.

² Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

identified application after having been mailed a copy of the application papers. Specifically, the declaration of Robert A. Calichman establishes that the non-signing inventor was sent a copy of the application papers but orally refused to execute and return the declaration naming him as a joint inventor along with Robert S. Coira, Joel D. Derstine, Christopher Panzica, Michael J. Kent, Theresa M. McNamara, and Ann Kathleen Harding-Hesse.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the in the petition, not the declaration. Notice of the filing of this application will also be published in the Official Gazette.

Petition Under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67

In view of the efforts recounted in the petition to obtain the signature of Joel D. Derstine, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration filed June 4, 1999.

The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions